

Appl. No. 09/936,119
Amdt. dated February 25, 2004
Reply to Office Action of Dec. 15, 2003

REMARKS/ARGUMENT

This amendment responds to the Office Action of December 15, 2003.

Claims 31-33, 36-40, 42, 45-47, 49-53, 55, 56, and 59-68 are pending in the application with claims 1-27, 34, and 43 having been previously canceled; claims 28-30, 35, 41, 44, 48, 54, 57, and 58 currently canceled; claims 33 and 53 having been previously amended; claims 31, 32, 36-40, 42, 45-47, 49-52, 55, 59, and 60 having been currently amended; former dependent claims 43 and 34 having been previously re-presented as claims 61 and 62, respectively; and former dependent claims 41, 44, 48, 54, 57, and 58 having been re-presented as new claims 63-68, respectively. Entry of these amendments is respectfully requested as it is believed they put the application in condition for allowance or in better condition for appeal.

The Examiner has maintained that should claim 55 be found allowable, claim 57 would be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. According to the Examiner, it is improper for a product claim to depend from a process/method claim. Claim 57 has been canceled and re-presented as new independent claim 67. Accordingly, it is no longer dependent upon a process/method claim. It is therefore requested that this objection be withdrawn.

Claims 59 and 60 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as their invention. It is Applicants' understanding that the specific basis for this rejection is the language "applying a composition to the situs of said crops." Applicants have now deleted

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references to "the situs" from claims 59 and 60. Accordingly, it is requested that the rejection of claims 59 and 60 under 35 U.S.C. 112, second paragraph, be withdrawn.

The Examiner has stated that claims 41, 44, 48-50, 54, and 58-60 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 61 and 62 have been allowed.

Claim 41 has been re-presented as new independent claim 63, which incorporates the features of former claims 28 and 35.

Claim 44 has been re-presented as new independent claim 64, which incorporates the features of former claims 28 and 35.

Claim 48 has been re-presented as new independent claim 65, which incorporates the features of former claims 28 and 35.

Claims 49 and 50 have been amended to be dependent upon new claim 65.

Claim 54 has been re-presented as new independent claim 66, which incorporates the features of former claims 28 and 35.

Claim 58 has been re-presented as new independent claim 68, which incorporates the features of former claim 28.

Claims 59 and 60 have been amended to be dependent upon allowed claims 61 and 62.

Accordingly, it is submitted that claims 49, 50, 59, 60, 63-66, and 68 are in condition for allowance.

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Claims 28-31, 35, 40, 42, 45, 46, 51, and 55-57 have been rejected under 35 U.S.C. 102(b) as being anticipated by Hedstrand et al. (U.S. Patent No. 5,560,929).

Claims 32-34, 36-39, 47, 52, and 53 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Hedstrand et al.

Claims 28-30, 34, and 35 have been canceled.

Claims 31 and 32 have been amended to be dependent upon allowed claim 62, and claim 33 is dependent upon claim 32.

Claims 36-40, 42, 45-47, 51, 52, and 55 have been amended to be dependent upon allowed claim 61, and claims 53 and 56 are dependent upon claims 52 and 55, respectively.

Claim 57 has been re-presented as independent claim 67, which incorporates the features of claims 55 and allowed claim 61.

Accordingly, it is requested that the rejections of claims 28-31, 35, 40, 42, 45, 46, 51, and 55-57 under 35 U.S.C. 102(b) as being anticipated by Hedstrand et al. and of claims 2-34, 36-39, 47, 52, and 53 under 35 U.S.C. 103(a) as being unpatentable over Hedstrand et al. be withdrawn.

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In view of the foregoing, it is submitted that this application is in condition for allowance and an early Office Action to that end is earnestly solicited.

Respectfully submitted,



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